

588.....	.9375
589.....	.9625
590.....	.9875
591.....	863.0125
592.....	.0375
593.....	.0625
594.....	.0875
595.....	.1125
596.....	.1375
597.....	.1625
598.....	.1875
599.....	.2125
600.....	.2375
601.....	.2625
602.....	.2875
603.....	.3125
604.....	.3375
605.....	.3625
606.....	.3875
607.....	.4125
608.....	.4375
609.....	.4625
610.....	.4875
611.....	.5125
612.....	.5375
613.....	.5625
614.....	.5875
615.....	.6125
616.....	.6375
617.....	.6625
618.....	.6875
619.....	.7125
620.....	.7375
621.....	.7625
622.....	.7875
623.....	.8125
624.....	.8375
625.....	.8625
626.....	.8875
627.....	.9125
628.....	.9375
629.....	.9625
630.....	.9875
631.....	864.0125
632.....	.0375
633.....	.0625
634.....	.0875
635.....	.1125
636.....	.1375

637.....	.1625
638.....	.1875
639.....	.2125
640.....	.2375
641.....	.2625
642.....	.2875
643.....	.3125
644.....	.3375
645.....	.3625
646.....	.3875
647.....	.4125
648.....	.4375
649.....	.4625
650.....	.4875
651.....	.5125
652.....	.5375
653.....	.5625
654.....	.5875
655.....	.6125
656.....	.6375
657.....	.6625
658.....	.6875
659.....	.7125
660.....	.7375
661.....	.7625
662.....	.7875
663.....	.8125
664.....	.8375
665.....	.8625
666.....	.8875
667.....	.9125
668.....	.9375
669.....	.9625
670.....	.9875
671.....	865.0125
672.....	.0375
673.....	.0625
674.....	.0875
675.....	.1125
676.....	.1375
677.....	.1625
678.....	.1875
679.....	.2125
680.....	.2375
681.....	.2625
682.....	.2875
683.....	.3125
684.....	.3375
685.....	.3625

686.....	.3875
687.....	.4125
688.....	.4375
689.....	.4625
690.....	.4875
691.....	.5125
692.....	.5375
693.....	.5625
694.....	.5875
695.....	.6125
696.....	.6375
697.....	.6625
698.....	.6875
699.....	.7125
700.....	.7375
701.....	.7625
702.....	.7875
703.....	.8125
704.....	.8375
705.....	.8625
706.....	.8875
707.....	.9125
708.....	.9375
709.....	.9625
710.....	.9875
711.....	866.0125
712.....	.0375
713.....	.0625
714.....	.0875
715.....	.1125
716.....	.1375
717.....	.1625
718.....	.1875
719.....	.2125
720.....	.2375
721.....	.2625
722.....	.2875
723.....	.3125
724.....	.3375
725.....	.3625
726.....	.3875
727.....	.4125
728.....	.4375
729.....	.4625
730.....	.4875
731.....	.5125
732.....	.5375
733.....	.5625
734.....	.5875

735.....	.6125
736.....	.6375
737.....	.6625
738.....	.6875
739.....	.7125
740.....	.7375
741.....	.7625
742.....	.7875
743.....	.8125
744.....	.8375
745.....	.8625
746.....	.8875
747.....	.9125
748.....	.9375
749.....	.9625
750.....	.9875
751.....	867.0125
752.....	.0375
753.....	.0625
754.....	.0875
755.....	.1125
756.....	.1375
757.....	.1625
758.....	.1875
759.....	.2125
760.....	.2375
761.....	.2625
762.....	.2875
763.....	.3125
764.....	.3375
765.....	.3625
766.....	.3875
767.....	.4125
768.....	.4375
769.....	.4625
770.....	.4875
771.....	.5125
772.....	.5375
773.....	.5625
774.....	.5875
775.....	.6125
776.....	.6375
777.....	.6625
778.....	.6875
779.....	.7125
780.....	.7375
781.....	.7625
782.....	.7875
783.....	.8125

784.....	.8375
785.....	.8625
786.....	.8875
787.....	.9125
788.....	.9375
789.....	.9625
790.....	.9875
791.....	868.0125
792.....	.0375
793.....	.0625
794.....	.0875
795.....	.1125
796.....	.1375
797.....	.1625
798.....	.1875
799.....	.2125
800.....	.2375
801.....	.2625
802.....	.2875
803.....	.3125
804.....	.3375
805.....	.3625
806.....	.3875
807.....	.4125
808.....	.4375
809.....	.4625
810.....	.4875
811.....	.5125
812.....	.5375
813.....	.5625
814.....	.5875
815.....	.6125
816.....	.6375
817.....	.6625
818.....	.6875
819.....	.7125
820.....	.7375
821.....	.7625
822.....	.7875
823.....	.8125
824.....	.8375
825.....	.8625
826.....	.8875
827.....	.9125
828.....	.9375
829.....	.9625
830.....	.9875

* * * * *

28. A new section 90.614 is added immediately after the text of Section 90.613 as follows:

§ 90.614 Cellular and non-cellular portions of 806-824/851-869 MHz band for non-border areas.

The 806-824/851-869 MHz band ("800 MHz band") will be divided as follows at locations farther than 110 km (68.4 miles) from the U.S./Mexico border and 140 km (87 miles) from the U.S./Canadian border ("non-border areas")

(a) 800 MHz cellular systems – as defined in § 90.7 – are prohibited from operating on channels 1-550 in non-border areas.

(b) 800 MHz cellular systems – as defined in § 90.7 – are permitted to operate on channels 551-830 in non-border areas.

(c) In the following counties and parishes, 800 MHz cellular systems – as defined in § 90.7 – are permitted to operate on channels 411-830:

Alabama

Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dale, Dallas, DeKalb, Elmore, Escambia, Etowah, Fayette, Franklin, Geneva, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, Shelby, St Clair, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston

Florida

Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Nassau, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, Washington

Georgia

Appling, Atkinson, Bacon, Baker, Baldwin, Banks, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brantley, Brooks, Bryan, Bulloch, Burke, Butts, Calhoun, Camden, Candler, Carroll, Catoosa, Charlton, Chatham, Chattahoochee, Chattooga, Cherokee, Clarke, Clay, Clayton, Clinch, Cobb, Coffee, Colquitt, Columbia, Cook, Coweta, Crawford, Crisp, Dade, Dawson, Decatur, DeKalb, Dodge, Dooly, Dougherty, Douglas, Early, Echols, Effingham, Elbert, Emanuel, Evans, Fannin, Fayette, Floyd, Forsyth, Franklin, Fulton, Gilmer, Glascock, Glynn, Gordon, Grady, Greene, Gwinnett, Habersham, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jeff Davis, Jefferson, Jenkins, Johnson, Jones, Lamar, Lanier, Laurens, Lee, Liberty, Lincoln, Long, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, McIntosh, Meriwether, Miller, Mitchell, Monroe, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Peach, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Rabun, Randolph, Richmond, Rockdale, Schley, Screven, Seminole, Spalding, Stephens, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Taylor, Telfair, Terrell, Thomas, Tift, Toombs, Towns, Treutlen, Troup, Turner, Twiggs, Union, Upson, Walker, Walton, Ware, Warren, Washington, Wayne, Webster, Wheeler, White, Whitfield, Wilcox, Wilkes, Wilkinson, Worth

Louisiana

Catahoula, Concordia, Madison, Tensas

Mississippi

Adams, Alcorn, Amite, Attala, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Copiah, Covington, Forrest, Franklin, George, Greene, Grenada, Hancock, Harrison, Hinds, Holmes, Itawamba, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Lawrence, Leake, Lee, Lincoln, Lowndes, Madison, Marion, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Perry, Pike, Pontotoc, Prentiss, Rankin, Scott, Simpson, Smith, Stone, Tippah, Tishomingo, Union, Walthall, Warren, Wayne, Webster, Wilkinson, Winston, Yazoo

North Carolina

Cherokee, Clay, Graham, Jackson, Macon

South Carolina

Abbeville, Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Edgefield, Greenwood, Hampton, Jasper, McCormick, Oconee

Tennessee

Bledsoe, Bradley, Franklin, Giles, Hamilton, Hardin, Lawrence, Lincoln, Marion, McMinn

29. Section 90.615 is amended to read as follows to reflect the General Category after band reconfiguration.

§ 90.615 Individual channels available in the General Category in 806-824/851-869 MHz band.

The General Category will consist of channels 231-260 at locations farther then 110 km (68.4 miles) from the U.S./Mexico border and 140 km (87 miles) from the U.S./Canadian border.

(a) Channels 231-260 will be available only to eligible applicants in the Public Safety Category until **[Three years from effective date of Report and Order]**. These same channels will be available only to eligible applicants in the Public Safety or Critical Infrastructure Industry Categories from **[Three years from effective date of Report and Order]** until **[Five years from effective date of Report and Order]**.

(b) All entities will be eligible for licensing on Channels 231-260 after **[Five years from effective date of Report and Order]**.

30. Section 90.617 is amended to read as follows to reflect the channels available after band reconfiguration.

§ 90.617 Frequencies in the 809.750-824/854.750-869 MHz, and 896-901/935-940 MHz bands available for trunked, conventional or cellular system use in non-border areas.

Except for the counties and parishes listed in § 90.614(c), the following channels will be available at locations farther then 110 km (68.4 miles) from the U.S./Mexico border and 140 km (87 miles) from the U.S./Canadian border ("non-border areas"). The channels in the counties and parishes listed in § 90.614(c) will be available in accordance with an agreement between Southern LINC and Nextel Communications, Inc. The agreement will be approved by the Chief of the Wireless Telecommunications Bureau.

(a) The channels listed in Table 1 and paragraph (a)(1) of this section are available for non-cellular operations to eligible applicants in the Public Safety Category which consists of licensees eligible in the Public Safety Pool of subpart B of this part. 800 MHz cellular systems as defined in §

90.7 are prohibited on these channels. These frequencies are available in non-border areas. Specialized Mobile Radio Systems will not be authorized in this category. These channels are available for intercategory sharing as indicated in §90.621(e).

TABLE 1 – PUBLIC SAFETY POOL 806-816/851-861 MHZ BAND CHANNELS (70 CHANNELS)

Group No.	Channel Nos.
269	269-289-311-399-439
270	270-290-312-400-440
279	279-299-319-339-359
280	280-300-320-340-360
309	309-329-349-369-389
310	310-330-350-370-390
313	313-353-393-441-461
314	314-354-394-448-468
321	321-341-361-381-419
328	328-348-368-388-420
351	351-379-409-429-449
332	352-380-410-430-450
Single Channels	391, 392, 401, 408, 421, 428, 459, 460, 469, 470

(1) Channels numbers 1–230 are also available to eligible applicants in the Public Safety Category in non-border areas. The assignment of these channels will be done in accordance with the policies defined in the Report and Order of Gen. Docket No. 87–112 (See §90.16).

(b) Unless otherwise specified, the channels listed in Table 2 are available for non-cellular operations to applicants eligible in the Industrial/Business Pool of subpart C of this part but exclude Special Mobilized Radio Systems as defined in §90.603(c). 800 MHz cellular systems as defined in § 90.7 are prohibited on these channels. These frequencies are available in non-border areas. Specialized Mobile Radio (SMR) systems will not be authorized on these frequencies. These channels are available for inter-category sharing as indicated in § 90.621(e).

TABLE 2 – BUSINESS/INDUSTRIAL/LAND TRANSPORTATION POOL 806-816/851-861 MHZ BAND CHANNELS (100 CHANNELS)

Group No.	Channel Nos.
322	322-362-402-442-482
323	323-363-403-443-483
324	324-364-404-444-484
325	325-365-405-445-485
326	326-366-406-446-486
327	327-367-407-447-487
342	342-382-422-462-502
343	343-383-423-463-503
344	344-384-424-464-504
345	345-385-425-465-505
346	346-386-426-466-506
347	347-387-427-467-507

Single Channels	261, 271, 281, 291, 301, 262, 272, 282, 292, 302, 263, 273, 283, 293, 303, 264, 274, 284, 294, 304, 265, 275, 285, 295, 305, 266, 276, 286, 296, 306, 267, 277, 287, 297, 307, 268, 278, 288, 298, 308
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(c) The channels listed in Table 3 are available to applicants eligible in the Industrial/Business Pool of subpart C of this part but exclude Special Mobilized Radio Systems as defined in §90.603(c). These frequencies are available in non-border areas. Specialized Mobile Radio (SMR) systems will not be authorized on these frequencies. These channels are available for intercategory sharing as indicated in §90.621(e).

TABLE 3 – BUSINESS/INDUSTRIAL/LAND TRANSPORTATION POOL 896-901/935-940 MHZ BAND CHANNELS 199 CHANNELS

For multi-channel systems, channels may be grouped vertically or horizontally as they appear in the below table.

Channel Nos.

11-12-13-14-15	211-212-213-214-215
16-17-18-19-20	216-217-218-219-220
31-32-33-34-35	231-232-233-234-235
36-37-38-39-40	236-237-238-239-240
51-52-53-54-55	251-252-253-254-255
56-57-58-59-60	256-257-258-259-260
71-72-73-74-75	271-272-273-274-275
76-77-78-79-80	276-277-278-279-280
91-92-93-94-95	291-292-293-294-295
96-97-98-99-100	296-297-298-299-300
111-112-113-114-115	311-312-313-314-315
116-117-118-119-120	316-317-318-319-320
131-132-133-134-135	331-332-333-334-335
136-137-138-139-140	336-337-338-339-340
151-152-153-154-155	351-352-353-354-355
156-157-158-159-160	356-357-358-359-360
171-172-173-174-175	371-372-373-374-375
176-177-178-179-180	376-377-378-379-380
191-192-193-194-195	391-392-393-394-395
196-197-198-199-200	396-397-398-399

(d) Unless otherwise specified, the channels listed in Tables 4A and 4B are available for non-cellular operations only to eligibles in the SMR category – which consists of Specialized Mobile Radio (SMR) stations and eligible end users. 800 MHz cellular systems as defined in § 90.7 are prohibited on these channels. These frequencies are available in non-border areas. The spectrum blocks listed in Table 4A are available for EA-based services (as defined by § 90.681 of this chapter) prior to [Effective date of Report and Order]. No new EA-based services will be authorized after

[Effective date of *Report and Order*]. EA-based licensees who operate non-cellular systems prior to [Effective date of *Report and Order*] may choose to remain on these channels in the non-cellular portion of the 800 MHz band (as defined in § 90.614 of this chapter.) These licensees may continue to operate non-cellular systems and will be grandfathered indefinitely. The channels listed in Table 4B will be available for site-base licensing after [Effective date of *Report and Order*] in any Economic Area where no EA-based licensee is authorized for these channels.

TABLE 4A – EA-BASED SMR CATEGORY 806-816/851-861 MHZ BAND CHANNELS FOR CELLULAR OPERATIONS AVAILABLE PRIOR TO [Effective date of *Report and Order*] (80 CHANNELS.)

Spectrum Block	Channel Nos.
G	311-351-391-431-471
H	312-352-392-432-472
I	313-353-393-433-473
J	314-354-394-434-474
K	315-355-395-435-475
L	316-356-396-436-476
M	317-357-397-437-477
N	318-358-398-438-478
O	331-371-411-451-491
P	332-372-412-452-492
Q	333-373-413-453-493
R	334-374-414-454-494
S	335-375-415-455-495
T	336-376-416-456-496
U	337-377-417-457-497
V	338-378-418-458-498

TABLE 4B – SMR CATEGORY 806-816/851-861 MHZ BAND CHANNELS FOR CELLULAR OPERATIONS AVAILABLE FOR SITE-BASED LICENSING AFTER [Effective date of *Report and Order*] (80 CHANNELS.)

Group No.	Channel Nos.
315	315-355-395-435-475
316	316-356-396-436-476
317	317-357-397-437-477
318	318-358-398-438-478
331	331-371-411-451-491
332	332-372-412-452-492
333	333-373-413-453-493
334	334-374-414-454-494
335	335-375-415-455-495
336	336-376-416-456-496
337	337-377-417-457-497
338	338-378-418-458-498
Single Channels	431, 432, 433, 434, 471, 472, 473, 474, 479, 480, 481, 488, 489, 490, 499, 500, 501, 508, 509, 510

(e) The Channels listed in § 90.614(b) and (c) of this chapter are available to eligibles in the SMR category – which consists of Specialized Mobile Radio (SMR) stations and eligible end users. ESMR licensees which employ an 800 MHz cellular system as defined in § 90.7 are permitted to operate on these channels in non-border areas. ESMR licensees authorized prior to [Effective date of Report and Order] may continue to operate, if they so chose, on the channels listed in Table 5. These licensees will be grandfathered indefinitely.

TABLE 5 – ESMR CATEGORY 816-821/861-866 MHZ BAND CHANNELS FOR CELLULAR OPERATIONS IN NON-BORDER AREAS AVAILABLE PRIOR TO [Effective date of Report and Order]. (200 CHANNELS)

Spectrum Block	Channel Nos.
A	511 through 530
B	531 through 590
C	591 through 710

(f) The channels listed in Tables 6 are available for operations only to eligibles in the SMR category – which consists of Specialized Mobile Radio (SMR) stations and eligible end users. These frequencies are available in non-border areas. The spectrum blocks listed below are available for EA-based services according to § 90.681.

TABLE 6 – SMR CATEGORY 896-901/935-940 MHZ BAND CHANNELS (200 CHANNELS)

Block	Channel Nos.
A	1-2-3-4-5-6-7-8-9-10
B	21-22-23-24-25-26-27-28-29-30
C	41-42-43-44-45-46-47-48-49-50
D	61-62-63-64-65-66-67-68-69-70
E	81-82-83-84-85-86-87-88-89-90
F	101-102-103-104-105-106-107-108-109-110
G	121-122-123-124-125-126-127-128-129-130
H	141-142-143-144-145-146-147-148-149-150
I	161-162-163-164-165-166-167-168-169-170
J	181-182-183-184-185-186-187-188-189-190
K	201-202-203-204-205-206-207-208-209-210
L	221-222-223-224-225-226-227-228-229-230
M	241-242-243-244-245-246-247-248-249-250
N	261-262-263-264-265-266-267-268-269-270
O	281-282-283-284-285-286-287-288-289-290
P	301-302-303-304-305-306-307-308-309-310
Q	321-322-323-324-325-326-327-328-329-330
R	341-342-343-344-345-346-347-348-349-350
S	361-362-363-364-365-366-367-368-369-370
T	381-382-383-384-385-386-387-388-389-390

(g) Channels below 470 listed in Tables 2 and 4B which are vacated by ESMR licensees after [Effective date of Report and Order] are available only to eligible applicants in the Public Safety

Category until **[Three years from effective date of Report and Order]**. These same channels will be available only to eligible applicants in the Public Safety or Critical Infrastructure Industry Categories from **[Three years from effective date of Report and Order]** until **[Five years from effective date of Report and Order]**. After **[Five years from effective date of Report and Order]** these channels will revert back to their original pool categories.

(h) Channels below 470 listed in Tables 2 and 4B which are vacated by licensees relocating to Channels 511-550 after **[Effective date of Report and Order]** are available only to eligible applicants in the Public Safety Category until **[Three years from effective date of Report and Order]**. These same channels will be available only to eligible applicants in the Public Safety or Critical Infrastructure Industry Categories from **[Three years from effective date of Report and Order]** until **[Five years from effective date of Report and Order]**. After **[Five years from effective date of Report and Order]** these channels will revert back to their original pool categories.

(i) Special Mobilized Radio Systems licensees who operate non-cellular systems on any of the public safety channels listed in Table 1 prior to **[Effective date of Report and Order]** are grandfathered and may continue to operate on these channels indefinitely. These grandfathered licensees will be prohibited from operating 800 MHz cellular systems as defined in § 90.7. Site-based licensees who are grandfathered on any of the public safety channels listed in Table 1 may modify their license only if they obtain concurrence from a certified public safety coordinator in accordance with § 90.175(c). Grandfathered EA-based licensees, however, are exempt from any of the frequency coordination requirements of § 90.175 as long as their operations remain within the Economic Area defined by their license in accordance with the requirements of § 90.683(a).

(j) Licensees operating ESMR systems in the non-cellular portion of the band (as defined in § 90.614) prior to **[Effective date of Report and Order]** may elect to continue operating in the non-cellular portion of the band. These licensees will be permitted to continue operating 800 MHz cellular systems (as defined in § 90.7) in the non-cellular portion of the band. These licensees will be grandfathered indefinitely subject to the provisions of §§ 90.673, 90.674 and 90.675.

(k) Licensees may operate systems other than 800 MHz cellular systems (as defined in § 90.7) on Channels 511-550 at any location vacated by an EA-based SMR licensee. For operations on these channels, unacceptable interference (as defined in §§ 22.970 & 90.672) will be deemed to occur only at sites where the following median desired signals are received (rather than those specified in §§ 22.970(a)(1)(i) & 90.672(a)(1)(i)). The minimum required median desired signal, as measured at the R.F. input of the receiver, will be as follows:

(1) Mobile units:

(i) For channels 511 to 524 – the minimum median desired signal levels specified in §§ 22.970(a)(1)(i) & 90.672(a)(1)(i) shall apply;

(ii) For channels 524 to 534 – the minimum median desired signal level shall increase linearly from the values specified in §§ 22.970(a)(1)(i) & 90.672(a)(1)(i) to -70 dBm;

(iii) For channels 534 to 550 – the minimum median desired signal level shall increase linearly from -70 dBm to -65 dBm.

(2) Portable units:

(i) For channels 511 to 524 – the minimum median desired signal levels specified in §§ 22.970(a)(1)(i) & 90.672(a)(1)(i) shall apply;

(ii) For channels 524 to 530 – the minimum median desired signal level shall increase linearly from the values specified in §§ 22.970(a)(1)(i) & 90.672(a)(1)(i) to -80 dBm;

(iii) For channels 530 to 534 – the minimum median desired signal level shall increase linearly from -80 dBm to -70 dBm;

(iv) For channels 534 to 550 – the minimum median desired signal level shall increase linearly from -70 dBm to -65 dBm.

31. Section 90.619 is amended to read as follows.

§ 90.619 Operations within the U.S./Mexico and U.S./Canada border areas.

(a) *Use of Frequencies in 800 MHz Band in Mexico Border Region.* All operations in the 806-824/851-869 MHz band within 110 km (68.4 miles) of the U.S./Mexico border ("Mexico border region") shall be in accordance with international agreements between the U.S. and Mexico. Channels 231-710 are offset 12.5 kHz lower in frequency than those specified in the table in §90.613. Stations located on Mt. Lemmon, serving the Tucson, AZ area, will only be authorized offset frequencies.

(b) *Use of Frequencies in 900 MHz Band in Mexico Border Region.* All operations in the 896-901/935-940 MHz band within the Mexico border region shall be in accordance with international agreements between the U.S. and Mexico.

(1) The channels listed in Table 1 below are available to applicants eligible in the Industrial/Business Pool of subpart C of this part but exclude Special Mobilized Radio Systems as defined in §90.603(c). These frequencies are available within the Mexico border region. Specialized Mobile Radio (SMR) systems will not be authorized on these frequencies.

TABLE 1 – UNITED STATES/MEXICO BORDER AREA, BUSINESS/INDUSTRIAL/LAND TRANSPORTATION POOL 896-901/935-940 MHz BAND (199 CHANNELS)

For multi-channel systems, channels may be grouped vertically or horizontally as they appear in the following table. Channels numbered above 200 may be used only subject to the power flux density limits stated in paragraph (a)(2) of this section:

<i>Channels Nos.</i>	
11-12-13-14-15	131-132-133-134-135
16-17-18-19-20	136-137-138-139-140
31-32-33-34-35	231-232-233-234-235
36-37-38-39-40	236-237-238-239-240
51-52-53-54-55	171-172-173-174-175
56-57-58-59-60	176-177-178-179-180
71-72-73-74-75	271-272-273-274-275
76-77-78-79-80	276-277-278-279-280
91-92-93-94-95	211-212-213-214-215
96-97-98-99-100	216-217-218-219-220
111-112-113-114-115	311-312-313-314-315
116-117-118-119-120	316-317-318-319-320
151-152-153-154-155	351-352-353-354-355
156-157-158-159-160	356-357-358-359-360
191-192-193-194-195	391-392-393-394-395
196-197-198-199-200	396-397-398-399

251-252-253-254-255	331-332-333-334-335
256-257-258-259-260	336-337-338-339-340
291-292-293-294-295	371-372-373-374-375
296-297-298-299-300	376-377-378-379-380

(2) The channels listed in Table 2 below are available for operations only to eligibles in the SMR category – which consists of Specialized Mobile Radio (SMR) stations and eligible end users. These frequencies are available in the Mexico border region. The spectrum blocks listed below are available for EA-based services according to § 90.681.

TABLE 2 – UNITED STATES-MEXICO BORDER AREA, SMR CATEGORY 896-901/935-940 MHZ BAND (200 CHANNELS)

Block	Channel Nos.
Channels numbered above 200 may only be used subject to the power flux density limits at or beyond the Mexico border as stated in paragraph (4) of this section.	
A	1-2-3-4-5-6-7-8-9-10
B	21-22-23-24-25-26-27-28-29-30
C	41-42-43-44-45-46-47-48-49-50
D	61-62-63-64-65-66-67-68-69-70
E	81-82-83-84-85-86-87-88-89-90
F	101-102-103-104-105-106-107-108-109-110
G	121-122-123-124-125-126-127-128-129-130
H	141-142-143-144-145-146-147-148-149-150
I	161-162-163-164-165-166-167-168-169-170
J	181-182-183-184-185-186-187-188-189-190
K	201-202-203-204-205-206-207-208-209-210
L	221-222-223-224-225-226-227-228-229-230
M	241-242-243-244-245-246-247-248-249-250
N	261-262-263-264-265-266-267-268-269-270
O	281-282-283-284-285-286-287-288-289-290
P	301-302-303-304-305-306-307-308-309-310
Q	321-322-323-324-325-326-327-328-329-330
R	341-342-343-344-345-346-347-348-349-350
S	361-362-363-364-365-366-367-368-369-370
T	381-382-383-384-385-386-387-388-389-390

(3) The specific channels that are available for licensing in the band 896–901/935–940 MHz within the Mexico border region are subject to Effective Radiated Power (ERP) and Antenna Height limitations as indicated in Table 3 below.

TABLE 3 – LIMITS OF EFFECTIVE RADIATED POWER (ERP) CORRESPONDING TO ANTENNA HEIGHTS OF BASE STATIONS IN THE 896-901/935-940 MHZ BANDS WITHIN 110 KILOMETERS (68.4 MILES) OF THE MEXICAN BORDER

Antenna height above mean sea level	ERP
-------------------------------------	-----

Meters	Feet	Watts (maximum)
0-503.....	0-1650.....	500
504-609.....	1651-2000.....	350
610-762.....	2001-2500.....	200
763-914.....	2501-3000.....	140
915-1066.....	3001-3500.....	100
1067-1219.....	3501-4000.....	75
1220-1371.....	4001-4500.....	70
1372-1523.....	4501-5000.....	65
Above 1523.....	Above 5000.....	5

(4) All channels in the 896-901/935-940 MHz band are available for assignment to U.S. stations within the Mexico border region if the maximum power flux density (pfd) of the station's transmitted signal at any point at or beyond the border does not exceed $-107 \text{ dB(W/m}^2\text{)}$. The spreading loss must be calculated using the free space formula taking into account any antenna discrimination in the direction of the border. Authorizations for stations using channels allotted to Mexico on a primary basis will be secondary to Mexican operations and conditioned to require that licensees take immediate action to eliminate any harmful interference resulting from the station's transmitted signal exceeding $-107 \text{ dB(W/m}^2\text{)}$.

(c) *Use of 800 MHz Band in Canada Border Region.* All operations in the 806-824/851-869 MHz band within 140 km (87 miles) of the U.S./Canada border ("Canada border region") shall be in accordance with international agreements between the U.S. and Canada.

(d) *Use of 900 MHz Band in Canada Border Region.* All operations in the 896-901/935-940 MHz band within the Canada border region shall be in accordance with international agreements between the U.S. and Canada. The following criteria shall govern the assignment of frequency pairs (channels) in the 896-901/935-940 MHz band for stations located in the U.S./Canada border area. They are available for assignments for conventional or trunked systems in accordance with applicable sections of this subpart. * * *

32. Paragraphs (a), (b), (c), (e), (f), (g) and (h) of Section 90.621 are amended to reflect the combining of the Business and Industrial/Land Transportation categories into one pool; to allow CMRS operations on 900 MHz PLMR channels; to allow 900 MHz PLMR licensees to transfer their licenses to CMRS licensees; to reflect the new channel numbers after band reconfiguration and to remove all references to spectrum blocks D through F1 which will no longer exist after band reconfiguration.

§ 90.621 Selection and assignment of frequencies.

(a) Applicants for frequencies in the Public Safety and Business/Industrial/Land Transportation Categories must specify on the application the frequencies on which the proposed system will operate pursuant to a recommendation by the applicable frequency coordinator. Applicants for frequencies in the SMR Category must request specific frequencies by including in their applications the frequencies requested.

* * * * *

(b) Stations authorized on frequencies listed in this subpart, except for those stations authorized pursuant to paragraph (g) of this section and EA-based and MTA-based SMR systems, will be assigned frequencies solely on the basis of fixed distance separation criteria. The separation between

co-channel systems will be a minimum of 113 km (70 mi) with one exception. For incumbent licensees in Channel Blocks G through V, that have received the consent of all affected parties or a certified frequency coordinator to utilize an 18 dBμV/m signal strength interference contour (see §90.693), the separation between co-channel systems will be a minimum of 173 km (107 mi). The following exceptions to these separations shall apply:

(1) Except as indicated in paragraph (b)(4) of this section, no station in Channel Blocks A through V shall be less than 169 km (105 mi) distant from a co-channel station that has been granted channel exclusivity and authorized 1 kW ERP on any of the following mountaintop sites: Santiago Peak, Sierra Peak, Mount Lukens, Mount Wilson (California). Except as indicated in paragraph (b)(4) of this section, no incumbent licensee in Channel Blocks G through V that has received the consent of all affected parties or a certified frequency coordinator to utilize an 18 dBμV/m signal strength interference contour shall be less than 229 km (142 mi) distant from a co-channel station that has been granted channel exclusivity and authorized 1 kW ERP on any of the following mountaintop sites: Santiago Peak, Sierra Peak, Mount Lukens, Mount Wilson (California).

* * * * *

(3) Except as indicated in paragraph (b)(4) of this section, stations in Channel Blocks A through V that have been granted channel exclusivity and are located in the State of Washington at the locations listed below shall be separated from co-channel stations by a minimum of 169 km (105 mi). Except as indicated in paragraph (b)(4) of this section, incumbent licensees in Channel Blocks G through V that have received the consent of all affected parties or a certified frequency coordinator to utilize an 18 dBμV/m signal strength interference contour, have been granted channel exclusivity and are located in the State of Washington at the locations listed below shall be separated from co-channel stations by a minimum of 229 km (142 mi). Locations within one mile of the geographical coordinates listed in the table below will be considered to be at that site.

Note: Coordinates are referenced to North American Datum 1983 (NAD83).

Site Name	North Latitude	West Longitude
Mount Constitution.....	48° 40' 47.4"	122° 50' 28.7"
Lyman Mountain.....	48° 35' 41.4"	122° 09' 39.6"
Cultus Mountain.....	48° 25' 30.4"	122° 08' 58.5"
Gunsite Ridge.....	48° 03' 22.4"	121° 51' 41.5"
Gold Mountain.....	47° 32' 51.3"	122° 46' 56.5"
Buck Mountain.....	47° 47' 05.3"	122° 59' 34.6"
Cougar Mountain.....	47° 32' 39.4"	122° 06' 34.4"
Squak Mountain.....	47° 30' 14.4"	122° 03' 34.4"
Tiger Mountain.....	47° 30' 13.4"	121° 58' 32.4"
Devils Mountain.....	48° 21' 52.4"	122° 16' 06.6"
McDonald Mountain.....	47° 20' 11.3"	122° 51' 30.5"
Maynard Hill.....	48° 00' 58.3"	122° 55' 35.6"
North Mountain.....	47° 19' 07.3"	123° 20' 48.6"
Green Mountain.....	47° 33' 40.3"	122° 48' 31.5"
Capitol Peak.....	46° 58' 21.3"	123° 08' 21.5"
Rattlesnake Mountain.....	47° 28' 09.4"	121° 49' 17.4"
Three Sisters Mountain.....	47° 07' 19.4"	121° 53' 34.4"
Grass Mountain.....	47° 12' 14.1"	121° 47' 42.4"
Spar Pole Hill.....	47° 02' 51.4"	122° 08' 39.4"

* * * * *

(c) Conventional systems authorized on frequencies in the Public Safety (except for those systems that have participated in a formal regional planning process as described in §90.16) and Business/Industrial/Land Transportation categories which have not met the loading levels necessary for channel exclusivity will not be afforded co-channel protection.

* * * * *

(e) Frequencies in the 809-817/854-862 MHz bands listed as available for eligibles in the Public Safety and Business/Industrial/Land Transportation Categories are available for inter-category sharing under the following conditions:

(1) Channels in the Public Safety and Business/Industrial/Land Transportation categories will be available to eligible applicants in those categories only if there are no frequencies in their own category and no public safety systems are authorized on those channels under consideration to be shared.

(2) Notwithstanding paragraph (e)(5) of this section, licensees of channels in the Business/Industrial/Land Transportation category may request a modification of the license, see §1.947 of this part, to authorize use of the channels for commercial operation. The licensee may also, at the same time or thereafter, seek authorization to transfer or assign the license, see §1.948 of this part, to any person eligible for licensing in the General or SMR categories. Applications submitted pursuant to this paragraph must be filed in accordance with the rules governing other applications for commercial channels, and will be processed in accordance with those rules. Grant of requests submitted pursuant to this paragraph is subject to the following conditions:

(i) A licensee that modifies its license to authorize commercial operations will not be authorized to obtain additional 800 MHz Business/Industrial/Land Transportation category channels for sites located within 113 km (70 mi.) of the station for which the license was modified, for a period of one year from the date the license is modified. This provision applies to the licensee, its controlling interests and their affiliates, as defined in §1.2110 of this chapter.

(ii) With respect to licenses the initial application for which was filed on or after November 9, 2000, requests submitted pursuant to paragraph (e)(2) of this section may not be filed until five years after the date of the initial license grant. In the case of a license that is modified on or after November 9, 2000 to add 800 MHz Business/Industrial/Land Transportation frequencies or to add or relocate base stations that expand the licensee's the interference contour, requests submitted pursuant to paragraph (e)(2) of this section for these frequencies or base stations may not be filed until five years after such modification.

* * * * *

(f) Licensees of channels in the Business/Industrial/Land Transportation Categories in the 896-901/935-940 MHz bands may request a modification of the license, see § 1.947 of this part, to authorize use of the channels for commercial operation. The licensee may also, at the same time, or thereafter, seek authorization to transfer or assign the license, see § 1.948 of this part, to any person eligible for licensing in the General or SMR categories. Applications submitted pursuant to this paragraph must be filed in accordance with the rules governing other applications for commercial channels, and will be processed in accordance with those rules.

(g) Applications for Public Safety systems (both trunked and conventional) in the 806-809/851-854 MHz bands will be assigned and protected based on the criteria established in the appropriate

regional plan. See §90.16 and the Report and Order in General Docket 87-112.

(h) Channel numbers 511-520, 551-560, 591-600, 631-640, and 671-680 are allocated for Basic Exchange Telecommunications Radio Service as described in § 22.757 of this chapter. NOTE: the FCC has proposed to remove these channels from the rural radiotelephone service in WT Docket No. 03-103 (FCC 03-95) released April 28, 2003 (68 FR 4403) which is pending.

* * * * *

33. The text in paragraph (d) of Section 90.629 is removed because the Business and Industrial/Transportation categories have been combined into one pool.

§ 90.629 Extended implementation period.

* * * * *

(d) [Reserved]

* * * * *

34. Paragraph (b) of Section 90.631 is amended to reflect the interleaved portion of the 800 MHz band after band reconfiguration and to remove references to Spectrum Block D which will no longer exist after band reconfiguration.

§ 90.631 Trunked systems loading, construction and authorization requirements.

* * * * *

(b) Each applicant for a non-SMR trunked system must certify that a minimum of seventy (70) mobiles for each channel authorized will be placed into operation within five (5) years of the initial license grant. Except for SMR systems licensed in the 809-816/854-861 MHz band and as indicated in paragraph (i) of this section, if at the end of five (5) years a trunked system is not loaded to the prescribed levels and all channels in the licensee's category are assigned in the system's geographic area, authorizations for trunked channels not loaded to seventy (70) mobile stations cancels automatically at a rate that allows the licensee to retain one channel for every one hundred (100) mobiles loaded, plus one additional channel. If a trunked system has channels from more than one category, General Category channels are the first channels considered to cancel automatically. All non-SMR licensees initially authorized before June 1, 1993, that are within their original license term, or SMR licensees that are within the term of a two-year authorization granted in accordance with paragraph (i) of this section, are subject to this condition. A licensee that has authorized channels cancelled due to failure to meet the above loading requirements will not be authorized additional channels to expand that same system for a period of six months from the date of cancellation.

* * * * *

35. Paragraph (g) of Section 90.645 is amended to reflect the interleaved portion of the 800 MHz band after band reconfiguration.

§ 90.645 Permissible operations.

* * * * *

(g) Up to five (5) contiguous 809-816/854-861 band channels as listed in §§90.615, 90.617, and 90.619 may be authorized after justification for systems requiring more than the normal single channel

bandwidth. If necessary, licensees may trade channels amongst themselves in order to obtain contiguous frequencies. Notification of such proposed exchanges shall be made to the appropriate frequency coordinator(s) and to the Commission by filing an application for license modification.

* * * * *

36. The following sections are added immediately after the text of Section 90.671:

PROCEDURES AND PROCESS - UNACCEPTABLE INTERFERENCE

§ 90.672 Unacceptable interference to non-cellular 800 MHz licensees from ESMR or Part 22 Cellular Radiotelephone systems.

(a) *Definition.* Except as provided in 47 C.F.R. §90.617(k), unacceptable interference to non-cellular licensees in the 800 MHz band will be deemed to occur when the below conditions are met:

(1) A transceiver at a site at which interference is encountered:

(i) Is in good repair and operating condition, and is receiving:

(A) A median desired signal of -104 dBm or higher, as measured at the R.F. input of the receiver of a mobile unit; or

(B) A median desired signal of -101 dBm or higher, as measured at the R.F. input of the receiver of a portable *i.e.* hand-held unit; and, either

(ii) Is a voice transceiver:

(A) with manufacturer published performance specifications for the receiver section of the transceiver equal to, or exceeding, the minimum standards set out in Section (b), below; and;

(B) Receiving an undesired signal or signals which cause the measured Carrier to Noise plus Interference ($C/(I+N)$) ratio of the receiver section of said transceiver to be less than 20 dB, or,

(iii) Is a non-voice transceiver receiving an undesired signal or signals which cause the measured bit error rate (BER) (or some comparable specification) of the receiver section of said transceiver to be more than the value reasonably designated by the manufacturer.

(2) Provided, however, that if the receiver section of the mobile or portable voice transceiver does not conform to the standards set out in paragraph (b), below, then that transceiver shall be deemed subject to unacceptable interference only at sites where the median desired signal satisfies the applicable threshold measured signal power in paragraphs (a)(1)(i) after an upward adjustment to account for the difference in receiver section performance. The upward adjustment shall be equal to the increase in the desired signal required to restore the receiver section of the subject transceiver to the 20 dB $C/(I+N)$ ratio of paragraph (a)(1)(iv)(a) above. The adjusted threshold levels shall then define the minimum measured signal power(s) in lieu of paragraphs (a) (1) (i) at which the licensee using such non-compliant transceiver is entitled to interference protection.

(b) *Minimum Receiver Requirements.* Voice transceivers capable of operating in the 806-824 MHz portion of the 800 MHz band shall have the following minimum performance specifications in order for the system in which such transceivers are used to claim entitlement to full protection against

unacceptable interference. (See paragraph (a) (2) above.)

(1) Voice units intended for mobile use: 75 dB intermodulation rejection ratio; 75 dB adjacent channel rejection ratio; -116 dBm reference sensitivity.

(2) Voice units intended for portable use: 70 dB intermodulation rejection ratio; 70 dB adjacent channel rejection ratio; -116 dBm reference sensitivity.

§ 90.673 Obligation to abate unacceptable interference.

(a) *Strict Responsibility.* Any licensee who, knowingly or unknowingly, directly or indirectly, causes or contributes to causing unacceptable interference to a non-cellular licensee in the 800 MHz band, as defined in this chapter, shall be strictly accountable to abate the interference, with full cooperation and utmost diligence, in the shortest time practicable. Interfering licensees shall consider all feasible interference abatement measures, including, but not limited to, the remedies specified in the interference resolution procedures set forth in this chapter. This strict responsibility obligation applies to all forms of interference, including out-of-band emissions and intermodulation

(b) *Joint and Several Responsibility.* If two or more licensees knowingly or unknowingly, directly or indirectly, cause or contribute to causing unacceptable interference to a non-cellular licensee in the 800 MHz band, as defined in this chapter, such licensees shall be jointly and severally responsible for abating interference, with full cooperation and utmost diligence, in the shortest practicable time. This joint and several responsibility rule requires interfering licensees to consider all feasible interference abatement measures, including, but not limited to, the remedies specified in the interference resolution procedures set forth in this chapter. This joint and several responsibility rule applies to all forms of interference, including out-of-band emissions and intermodulation

(1) This joint and several responsibility rule requires interfering licensees to consider all feasible interference abatement measures, including, but not limited to, the remedies specified in the interference resolution procedures set forth in § 90.674(c) of this chapter. This joint and several responsibility rule applies to all forms of interference, including out-of-band emissions and intermodulation.

(2) Any licensee that can show that its signal does not directly or indirectly, cause or contribute to causing unacceptable interference to a non-cellular licensee in the 800 MHz band, as defined in this chapter, shall not be held responsible for resolving unacceptable interference. Notwithstanding, any licensee that receives an interference complaint from a public safety/CII licensee shall respond to such complaint consistent with the interference resolution procedures set forth in this chapter.

§ 90.674 Interference resolution procedures before, during and after band reconfiguration.

(a) *Initial Notification.* Any non-cellular licensee operating in the 806-824/851-869 MHz band who reasonably believes it is receiving harmful interference, as described in § 90.672, shall provide an initial notification of the interference incident. This initial notification of an interference incident shall be sent to all Part 22 Cellular Radiotelephone licensees and ESMR licensees who operate cellular base stations ("cell sites") within 1,524 meters (5,000 feet) of the interference incident.

(1) The initial notification of interference shall include the following information on interference:

(i) the specific geographical location where the interference occurs, and the time or times at which the interference occurred or is occurring;

(ii) a description of its scope and severity, including its source, if known;

(iii) the relevant Commission licensing information of the party suffering the interference;
and

(iv) a single point of contact for the party suffering the interference.

(2) ESMR licensees, in conjunction with Part 22 Cellular Radiotelephone licensees, shall establish an electronic means of receiving the initial notification described in subsection (a)(1) above. The electronic system must be designed so that all appropriate 800 MHz ESMR and Part 22 Cellular Radiotelephone licensees can be contacted about the interference incident with a single notification. The electronic system for receipt of initial notification of interference complaints must be operating no later than **[Thirty days after effective date of Report and Order]**.

(3) ESMR licensees must respond to the initial notification described in paragraph (a)(1) of this section, as soon as possible and no later than 24 hours of receipt of notification from a public safety/CII licensee. This response time may be extended to 48 hours after receipt from other non-cellular licensees provided affected communications on these systems are not safety related.

(b) *Interference Analysis.* ESMR licensees – who receive an initial notification described in paragraph (a) above – shall perform a timely analysis of the interference to identify the possible source. Immediate on-site visits may be conducted when necessary to complete timely analysis. Interference analysis must be completed and corrective action initiated within 48 hours of the initial complaint from a public safety/CII licensee. This response time may be extended to 96 hours after the initial complaint from other non-cellular licensees provided affected communications on these systems are not safety related. Corrective action may be delayed if the affected licensee agrees in writing (which may be, but is not required to be, recorded via e-mail or other electronic means) to a longer period.

(c) *Mitigation Steps.* (1) All ESMR and Part 22 Cellular Radiotelephone licensees who are responsible for causing unacceptable interference shall take all affirmative measures to resolve such interference. ESMR licensees found to contribute to harmful interference, as defined in § 90.672, shall resolve such interference in the shortest time practicable. ESMR and Part 22 Cellular Radiotelephone licensees must provide all necessary test apparatus and technical personnel skilled in the operation of such equipment as may be necessary to determine the most appropriate means of timely eliminating the interference. However, the means whereby interference is abated or the cell parameters that may need to be adjusted is left to the discretion of involved ESMR and/or Part 22 Cellular Radiotelephone licensees, whose affirmative measures may include, but not be limited to, the following techniques:

- (i) increasing the desired power of the public safety signal;
- (ii) decreasing the power of the ESMR and/or Part 22 Cellular Radiotelephone signal;
- (iii) modifying the ESMR and/or Part 22 Cellular Radiotelephone systems antenna height;
- (iv) modifying the ESMR and/or Part 22 Cellular Radiotelephone system antenna characteristics;
- (iv) incorporating filters into ESMR and/or Part 22 Cellular Radiotelephone system transmission equipment;
- (v) permanently changing ESMR and/or Part 22 Cellular Radiotelephone system

frequencies; and

(vi) supplying interference-resistant receivers to the affected public safety licensee(s). If this technique is used, in all circumstances, the ESMR and/or Part 22 Cellular Radiotelephone licensees shall be responsible for all costs thereof.

(2) Whenever short-term interference abatement measures prove inadequate, the affected licensee shall, consistent with but not compromising safety, make all necessary concessions to accepting interference until a longer-term remedy can be implemented.

(3) *Discontinuing operations when clear and imminent danger exists.* When a public safety licensee determines that a continuing presence of interference constitutes a clear and imminent danger to life or property, the licensee causing the interference must discontinue the associated operation immediately, until a remedy can be identified and applied. The determination that a continuing presence exists that constitutes a clear and imminent danger to life or property, must be made by written statement that:

(i) is in the form of a declaration, notarized affidavit, or statement under penalty or perjury, from an officer or executive of the affected public safety licensee;

(ii) thoroughly describes the basis of the claim of clear and imminent danger;

(iii) was formulated on the basis of either personal knowledge or belief after due diligence;

(iv) is not proffered by a contractor or other third party; and

(v) has been approved by the Chief of the Wireless Telecommunication Bureau or other designated Commission official. Prior to the authorized official making a determination that a clear and imminent danger exists, the associated written statement must be served by hand-delivery or receipted fax on the applicable offending licensee, with a copy transmitted by the fastest available means to the Washington, D.C. office of the Commission's Wireless Telecommunications Bureau.

§ 90.675 Information exchange.

(a) *Prior Coordination.* Public safety/CII licensees may notify an ESMR or Part 22 Cellular Radiotelephone licensee that they wish to receive prior notification of the activation or modification of ESMR or Part 22 Cellular Radiotelephone cell sites in their area. Thereafter, the ESMR or Part 22 Cellular Radiotelephone licensee must provide the following information to the public safety/CII licensee at least 10 business days before a new cell site is activated or an existing cell site is modified:

(1) location;

(2) effective radiated power;

(3) antenna height;

(4) channels available for use.

(b) *Purpose of Prior Coordination.* The coordination of cell sites is for informational purposes only: public safety/CII licensees are not afforded the right to accept or reject the activation of a

proposed cell or to unilaterally require changes in its operating parameters. The principal purposes of notification are to: (a) allow a public safety/CII licensee to advise the ESMR or Part 22 Cellular Radiotelephone licensee whether it believes a proposed cell will generate unacceptable interference; (b) permit ESMR or Part 22 Cellular Radiotelephone licensees to make voluntary changes in cell parameters when a public safety licensee alerts them to possible interference; and (c) rapidly identify the source if interference is encountered when the cell is activated.

(c) *Public Safety Information Exchange.* (1) Upon request by an ESMR or Part 22 Cellular Radiotelephone licensee, public safety/CII licensees who operate radio systems in the 806-824/851-869 MHz shall provide the operating parameters of their radio system to the ESMR or Part 22 Cellular Radiotelephone licensee.

(2) Public safety licensees who perform the information exchange described above must notify the appropriate ESMR and Part 22 Cellular Radiotelephone licensees prior to any technical changes to their radio system.

§ 90.676 Transition administrator for reconfiguration of the 806-824/851-869 MHz band in order to separate cellular systems from non-cellular systems.

The Transition Administrator will be an independent party with no connection to any 800 MHz licensee; and will be selected by a committee representative of 800 MHz licensees. The Transition Administrator will serve both a ministerial role and a function similar to a special master in a judicial proceeding.

(a) The duties of the Transition Administrator will include, but not be limited to:

(1) Obtaining estimates from licensees regarding the cost of reconfiguring their systems and ensuring that estimates contain a firm work schedule. The Transition Administrator will retain copies of all estimates and make them available to the Commission on request.

(2) Mediating disputes regarding cost estimates for reconfiguring a system.

(3) Issuing the Draw Certificate to authorize and instruct the Letter of Credit Trustee to draw down on the Letter of Credit to pay relocation costs in connection with reconfiguring a licensee's system.

(4) Establishing a relocation schedule on a NPSPAC region-by-region basis, prioritizing the regions on the basis of population. However, should a given region be encountering unusually severe amounts of unacceptable interference, that region may be moved up in priority. Any party disputing such a change in priority may refer the matter to the Chief of the Public Safety and Critical Infrastructure Division, who hereby is delegated the authority to resolve such disputes. The Transition Administrator may direct that adjoining regions be reconfigured simultaneously when conditions so require.

(5) The Transition Administrator will coordinate relocation of a NPSPAC Region's NPSPAC channels with the relevant Regional Planning Committee(s) prior to commencing band reconfiguration in a NPSPAC Region.

(b) Once band reconfiguration commences in a given NPSPAC Region, the Transition Administrator will;

(1) Monitor the retuning schedule and resolve any schedule delays or refer same to the Public

Safety and Critical Infrastructure Division for resolution;

(2) Coordinate with adjoining NPSPAC Regions to ensure that interference is not being caused to their existing facilities from relocated stations;

(3) Provide quarterly progress reports to the Commission in such detail as the Commission may require and include, with such reports, certifications by Nextel and the relevant licensees that relocation has been completed and that both parties agree on the amount received from the letter of credit proceeds in connection with relocation of the licensees' facilities. The report shall include description of any disputes that have arisen and the manner in which they were resolved. These quarterly reports need not be audited;

(4) Provide to the Public Safety and Critical Infrastructure Division, on the anniversary of **[Effective date of Report and Order]**, an audited statement of relocation funds expended to date, including salaries and expenses of Transition Administrator;

(5) Facilitate resolution of disputes by mediation; or referral of the parties to alternative dispute resolution services;

(c) The Transition Administrator may not serve as the repository of funds used in band reconfiguration, excepting such sums as Nextel may pay for the Transition Administrator's services. Moreover, the Transition Administrator will not be certified by the Commission as a frequency coordinator.

§ 90.677 Reconfiguration of the 806-824/851-869 MHz band in order to separate cellular systems from non-cellular systems.

In order to facilitate reconfiguration of the 806-824/851-869 MHz band ("800 MHz band") to separate cellular systems from non-cellular systems, Nextel Communications, Inc. (Nextel) may relocate incumbents within the 800 MHz band by providing "comparable facilities." For the limited purpose of band reconfiguration, the provisions of § 90.157 shall not apply and inter-category sharing will be permitted under all circumstances. Such relocation is subject to the following provisions:

(a) Within thirty days of Commission approval of the Transition Administrator, the Transition Administrator described in § 90.676 will provide the Commission with a schedule detailing when band reconfiguration shall commence for each NPSPAC Region. The plan should also detail – by NPSPAC Region – which relocation option each non-Nextel ESMR licensee has chosen. The Chief of the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau will finalize and approve such a plan. The schedule shall provide for completion of band reconfiguration in no more than thirty-six months following release of a Public Notice announcing the start date of reconfiguration in the first NPSPAC region. Relocation will commence according to the schedule set by the Transition Administrator but all systems must have commenced reconfiguration within thirty months of release of a Public Notice announcing the start date of reconfiguration in the first NPSPAC region.

(b) *Voluntary negotiations.* Thirty days before the start date for each NPSPAC region, the Chief of the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau will issue a Public Notice initiating a three-month voluntary negotiation period. During this voluntary negotiation period, Nextel and all incumbents may negotiate any mutually agreeable relocation agreement. Nextel and relocating incumbents may agree to conduct face-to-face negotiations or either party may elect to communicate with the other party through the Transition Administrator.

(c) *Mandatory negotiations.* If no agreement is reached by the end of the voluntary period, a

three-month mandatory negotiation period will begin during which both Nextel and the incumbents must negotiate in "good faith." Nextel and relocating incumbents may agree to conduct face-to-face negotiations or either party may elect to communicate with the other party through the Transition Administrator. All parties are charged with the obligation of utmost "good faith" in the negotiation process. Among the factors relevant to a "good-faith" determination are: (i) whether the party responsible for paying the cost of band reconfiguration has made a *bona fide* offer to relocate the incumbent to comparable facilities; (ii) the steps the parties have taken to determine the actual cost of relocation to comparable facilities; and (iii) whether either party has unreasonably withheld information, essential to the accurate estimation of relocation costs and procedures, requested by the other party. The Transition Administrator may schedule mandatory settlement negotiations and mediation sessions and the parties must conform to such schedules.

(d) *Transition Administrator.* If no agreement is reached during either the voluntary or mandatory negotiating periods, all disputed issues shall be referred to the Transition Administrator who shall mediate and attempt to resolve them within thirty working days. If disputed issues remain thirty days after the end of the mandatory negotiation period, the Transition Administrator shall forward the record to the Chief of the Public Safety and Critical Infrastructure Division, together with advice on how the matter(s) may be resolved. The Chief of the Public Safety and Critical Infrastructure Division is hereby delegated the authority to rule on disputed issues, *de novo*.

(e) *Waiver Requests.* Incumbents who wish not to relocate according to the schedule may petition the Commission for a waiver of the relocation obligation. Such a waiver would only be granted on a strict non-interference basis.

(f) *Comparable Facilities.* The replacement system provided to an incumbent must be as equivalent to the existing 800 MHz system with respect to the four factors described in § 90.699(c).

(g) *Information Exchange.* Absent agreement between parties, the Transition Administrator will be responsible for determining the information that relocating incumbents must supply in support of a relocation agreement.

(h) The relevant Regional Planning Committee shall be informed of any proposed changes to any NPSPAC channel.

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37. The heading above Section 90.681 is amended to describe the portion of the band where EA-based SMR systems may occupy after band reconfiguration. The cross reference in Section 90.681 is updated as follows:

**POLICIES GOVERNING THE LICENSING AND USE OF EA-BASED SMR SYSTEMS IN
THE 809-824/851-869 MHZ BAND**

Source: 61 FR 6158, 6159, Feb. 16, 1996, unless otherwise noted.

§ 90.681 EA-based SMR service areas.

EA licenses in for channels 711 through 830 and Spectrum Blocks A through V listed in Tables 4 and 5 of §90.617 are available in 175 Economic Areas (EAs) as defined in §90.7.

38. Paragraph (a) of Section 90.683 is amended to reflect the portion of the band where EA-based SMR systems may occupy after band reconfiguration.